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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/491,094    01/24/00    HEATH

R    1975.99C

EXAMINER
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QM12/1227

Frank J Catalano  
810 S Cincinnati Suite 405  
Tulsa OK 74119

HYLTON, R	
ART UNIT	PAPER NUMBER

3727  
DATE MAILED:

*[Handwritten 'S']*  
12/27/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
**09/491,094**

Applicant(s)

**Heath et al.**

Examiner

**Robin A. Hylton**

Group Art Unit

**3727**



☒ Responsive to communication(s) filed on Oct 4, 2000

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-10 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-10 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☒ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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#### DETAILED ACTION

1. Regarding applicant's requested amendment on page 1 of the response filed October 4, 2000, the line beginning "Line 5" has not been entered. Applicant should clearly indicate if the intended amendment is to claim 1 or another of the claims in response to this Office action.

#### *Drawings*

2. The drawings are objected to because the cross sectional view of figure 3 provides no cross hatching. Correction is required.

3. The drawings are objected to under 37 CFR 1.83(a) because they fail to show the plastic material of the lid as described in the background of the invention in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Correction is required.

#### 4. INFORMATION ON HOW TO EFFECT DRAWING CHANGES

a. Correction of Informalities -- 37 CFR 1.85; 1097 O.G. 36

New formal drawings must be filed with the changes incorporated therein. The art unit number, application number (including series code) and number of drawing sheets should be written on the reverse side of the drawings. Applicant may delay filing of the new drawings until receipt of the "Notice of Allowability" (PTOL-37 or PTO-37). If delayed, the new drawings **MUST** be filed within the **THREE MONTH** shortened statutory period set for reply in the "Notice of Allowability". The drawings should be filed as separate paper with a transmittal letter addressed to the Official Draftsperson.

b. Corrections other than Informalities Noted by Draftsperson on form PTO-948.

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All changes to the drawings, other than informalities noted by the Draftsperson, **MUST** be made in the same manner as above except that, normally, a highlighted (preferably red ink) sketch of the changes to be incorporated into the new drawings **MUST** be approved by the examiner before the application will be allowed. No changes will be permitted to be made, other than correction of informalities, unless the examiner has approved the proposed changes.

#### **Timing of Corrections**

Applicant is required to submit acceptable corrected drawings within the three month shortened statutory period set in the "Notice of Allowability" (PTO-37). Within that three month period, two weeks should be allowed for review of the new drawings by the Office. If a correction is determined to be unacceptable by the Office, applicant must arrange to have an acceptable correction re-submitted within the original three month period. Therefore, applicant should file corrected drawings as soon as possible.

Failure to take corrective action within the set (or extended) period will result in **ABANDONMENT** of the application.

#### ***Specification***

5. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

#### ***Claim Rejections - 35 USC § 112***

6. Claims 2-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the claims are rejected for the following reasons:

The structure of the lid is not clearly set forth in claim 4. The serrations cannot grip a lip of a container since the serration would be the absence of material.

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The structure and structural relationships between the parts of the lid are not clearly set forth. What is the relationship between "an inner wall of the clamp" in claim 2 and "an inner edge" and "an inner lip" in claim 3?

The term "whereby" in the independent claims should be changed to -- wherein -- to positively recite the structure set forth following the term.

The phrase "said a top of said clamp" in claim 1, line 3 is awkward.

Dependent claims not specifically mentioned are rejected as depending from rejected base claims since they inherently contain the same deficiencies therein.

***Claim Rejections - 35 USC § 102***

7. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
8. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Meyers (US 4,953,737). See figure 6 for a disposable lid comprising an annular clamp 50 and a spout 46 extending upwardly from a top of said clamp (on the left side of the figure); an inner wall of the clamp and an inner wall of the spout converging smoothly to a discharge port in the spout.

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Freeman et al. (US 5,186,347)(Freeman) in view of Meyers. Freeman discloses the claimed lid except for the smooth

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convergence between an inner wall of the clamp and an inner wall of the spout. Meyers discloses a lid comprising a clamp and a spout with a smooth convergence between an inner wall of the clamp and an inner wall of the spout. It would have been obvious to one of ordinary skill in the art to modify the lid of Freeman in view of Meyers to provide a smooth convergence between an inner wall of the clamp and an inner wall of the spout to allow for complete drainage and smooth flowing movement of a liquid dispensed from a container.

***Allowable Subject Matter***

11. Claims 4-10 appear to be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2<sup>nd</sup> paragraph, set forth in this Office action.
12. The following is a statement of reasons for the indication of allowable subject matter: the prior art of record does not disclose a lid as claimed wherein the lid comprises a frustoconical spout as set forth, a clamp having an inner, serrated lip and an outer lip having nodules.

***Response to Arguments***

13. Applicant's arguments with respect to claims 2-10 have been considered. In view of the arguments to the rejection set forth under 35 USC 112, first paragraph and second paragraphs, the rejections have been overcome and are hereby withdrawn.

***Conclusion***

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Various lids comprising spouts are cited of interest.
15. In view of the new grounds of rejection to claims 2-10, this Office action is made non-final.

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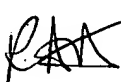
16. In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses to Office Actions directly into the Group at (703)305-3579. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into Group 3720 will be promptly forwarded to the examiner.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robin Hylton whose telephone number is (703) 308-1208. The examiner can normally be reached on Monday - Friday from 9:30 a.m. to 5:00 p.m. (Eastern time).

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Errica Bembry at (703)306-4005.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1148. The fax phone number for this Group is (703) 305-3579.

Robin A. Hylton/rah  
December 15, 2000



Allan N. Shoap  
Supervisory Patent Examiner  
Group 3700